

BOARD OF ADJUSTMENT REPORT



MEETING DATE: 7/6/2005

ITEM No. _____

ACTION REQUESTED: Zoning Ordinance Variance

SUBJECT **Dickman Residence (4-BA-2005)**

REQUEST Request to approve a variance from Article V. Section 5.804.E.2 regarding the building setback and/or Article V. Section 5.804.F.1 regarding the distance between buildings.

OWNER Susan Dickman
480-994-0621

APPLICANT CONTACT Lynne Lagarde
602-265-0094

LOCATION 7916 E Vista Dr, which is located near the southwest corner of Jackrabbit Road and Hayden Roads

CODE ENFORCEMENT ACTIVITY A Code Enforcement Notice of Violation was issued regarding this project in March 2005. The violation sites construction of an addition to the townhouse without a valid City building permit and violation of the 10 or 0 foot rear yard setback of the district.



PUBLIC COMMENT A letter from the HOA has been received and is indicating that detailed architectural plans and specifications are still required to be submitted on this case. The Laguna San Juan HOA approved her architectural submittal form "to complete various upgrades to her home" on September 20, 2004 however, as of the date of this report, the applicant has never received formal approval of the bedroom expansion plans from the HOA. At the time of writing the report, eight (8) emails have been received, 7 in favor and 1 against the variance. This case was continued from the May 4, 2005 and June 8, 2005 Board of Adjustment meetings at the applicant's request. Nineteen (19) citizen comment cards were submitted but not considered due to the continuance at the prior meeting and 19 citizen comment cards were submitted at the second meeting, 11 in favor, 5 against and 3 no preference noted. In addition, 2 separate petitions have been received regarding this variance, one contains fifty- (50) names in support, and one contains forty (40) names in opposition of the proposal.

SITE ZONING	R-4 (C) Townhouse Residential District. The C or Condition note relates to a requirement of the original 1971 zoning case requiring land to provide for the Indian Bend, Low Flow Channel.
ORDINANCE REQUIREMENTS	Section 5.804.E.2 requires a rear yard setback either 0 or 10 feet. Also, Section 5.804.F.1 requires a minimum 10 feet separation distance between main buildings on adjacent lots. The applicant's bedroom addition contains a setback of 6 feet from the rear property line, requiring a variance of 4 feet. If the applicant chooses to further extend the bedroom to the north property line to provide for a 0 foot setback, a variance of about 4 feet is also required for the separation distance between buildings on adjacent lots (from 10 to 6 feet), since the neighboring homes to the north are about 6 to 10 feet from the property line.
DISCUSSION	<p>The site contains an attached townhouse located in the Laguna San Juan residential townhouse community. The townhouse is on a corner lot, with E. Vista Drive along the south and N. 79th Place to the east side, and contains 4,547 square feet (0.10 acres). The existing 1,716 square foot single story townhouse contains a front attached, 2-car garage. Current building setbacks are 12 feet from the front (south) yard, 8 feet from the side (east) yard, 16 feet from the rear (north) yard and 0 feet from the common side (west) yard. Similar townhouse units are located on adjacent properties surrounding the site. As noted, setbacks from the homes located north of the site's north property line are approximately 6 to 10 feet.</p> <p>The request is for approval of a 4-foot rear yard setback variance to permit the 10 by 13 foot bedroom addition to locate in the rear yard of the townhouse. The applicant indicates she submitted an application for approval from the HOA for the addition but did not obtain an approval from the HOA or the City.</p>
FINDINGS	<p>1. That there are special circumstances applying to the property referred to in the application, which do not apply to other properties in the District. The special circumstances must relate to the size, shape, topography, location or surroundings of the property at the above address:</p> <p>The applicant indicates that the configuration of the townhouse on the lot and the floor plan of the unit make it difficult to add meaningful space to the master bedroom without encroaching into the required ten (10) foot setback. While extending the townhouse to the north property line (0 ft. setback) may permit a 0 foot property line setback, a negative impact is created on adjoining townhouses by eliminating any landscape areas between adjoining townhouses. Staff feels conformance to the Ordinance is possible by reducing the depth and increasing the width of the bedroom floor plan.</p> <p>2. That the authorizing of the variance is necessary for the preservation of the privileges and rights enjoyed by other</p>

properties within the same zoning classification and zoning district:

The applicant indicates that numerous other residents of Laguna San Juan have expanded their townhouses and encroached into the 10-foot setback to provide additional functional space to their homes. Also, other townhouse and patio home projects in the City have received amended development standards permitting more flexible standards for expanding the units. Staff recognizes that approximately 10% of the homes in this development have encroachments within the 10-foot rear yard. However, these homes have developed in conformance with City standards and no Code violations have been received.

3. That special circumstances were not created by the owner or applicant:

The applicant indicates the design and layout of the townhouse lot and unit floor plan created special circumstances, outside of the control of the owner. The design of townhouse and lot area provides minimal opportunity to expand the unit. Since the original bedroom setback was approximately 16 feet from the property line, only a 6 foot wide or 78 square foot bedroom addition was possible to conform to the 10-foot setback requirement, while the applicant sought a 10 foot wide or 130 square foot addition. Expanding the bedroom to provide a 0-foot rear property line setback was not deemed desirable to the applicant and would not conform to the distance between buildings requirement. Staff feels that a revised longer and narrower design meeting the 10-ft. setback requirement is feasible for the property. Also, staff notes that the owner created the special circumstances because she did not get the appropriate approvals and permits from the City.

4. That the authorizing of the application will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood, or the public welfare in general:

The applicant indicates the variance is not out of character of the Laguna San Jaun townhouse development since the addition matches the style and colors of the complex, and provides sufficient room for landscaping to buffer adjacent properties to the north between the addition and the property line. The applicant indicates there are other properties in the development that have had additions with setbacks between 0 to 10 feet and have not been detrimental to the area. Staff feels opportunities for a revised floor plan exist to permit the construction to be in conformance with the property line setback requirements established for the area.

STAFF CONTACT

Al Ward, Senior Planner
Report Author
Phone: 480-312-4211
E-mail: AWard@ScottsdaleAZ.gov

Kurt Jones, Current Planning Director
Phone: 480-312-2524
E-mail: Kjones@ScottsdaleAZ.gov

ATTACHMENTS

1. Project Narrative
2. Justification
3. Context Aerial
4. Aerial Close-up
5. Zoning Map
6. Photographs
7. Neighborhood/HOA Correspondence
8. Site Plan

PROJECT NARRATIVE

After purchasing my town home at Laguna San Juan located at 7916 E. Vista Drive, I wanted to enclose the existing bedroom patio and have a little more room in the master bedroom. Other town homes in my neighborhood appeared to have made similar minor additions and improvements to their properties, so I obtained approval from the HOA and proceeded with the master bedroom extension. The completed master bedroom project now places the wall of the home six feet from the wall on the north property line. It has been explained to me by Staff, that under the current zoning of the property, the setback to the property line has to be either zero or ten feet. Therefore, I am requesting a variance to allow a six-foot setback from the wall. The variance would allow an improvement to my home that is consistent and compatible with improvements made to other homes in the area. The functioning and usability of the home will be improved adding to its value in a way that does not negatively impact anyone.

O:\INDEX\Dickman\79th & Vista\Docs\PROJECT NARRATIVE.doc

4-BA-2005
REV: 4/12/2005

JUSTIFICATION FOR VARIANCE
79th & Vista Dr.

1. There are special circumstances or conditions applied to the land, building, or use which do not apply to other properties in the district:

The subject townhome is within the Laguna San Juan townhome complex zoned R-4 with attached units. The configuration of the townhome on the lot and the floor plan of the unit make it impossible to add any meaningful space to the master bedroom without encroaching into the ten foot yard requirement. Due to these building and lot layout circumstances, numerous other residents of Laguna San Juan have expanded their units encroaching into the ten foot setback in order to add functional space to their homes. The yard provisions of the R-4 District create a hardship in situations like this in that they either prevent additions to a townhome unit or require the additions to extend all the way to the lot line. Many other similar types of townhome or patio home developments zoned R-4 have amended development standards which would enable such additions to occur without being forced all the way to the property line, which creates far greater impact on adjacent neighbors and eliminates open space and landscaping between homes.

2. Authorizing the variance is necessary for the preservation and enjoyment of substantial property rights:

Without the granting of a setback variance in circumstances such as these, the only choice the owner has is to build an addition to the property line, which eliminates open space and landscaping on the lot and creates a tiny, unusable, no man's land in the northwest corner of the lot. With a six-foot space between the master bedroom addition and the wall on the property line, landscaping can be planted, which creates a more aesthetically appealing backyard environment for both the property owner and the adjacent neighbors. Extension of the addition all the way to the wall between the properties has a far more negative impact on the character of the townhome complex than leaving a wide enough area for landscaping and space between the building masses. It also allows a more visually appealing and usable backyard.

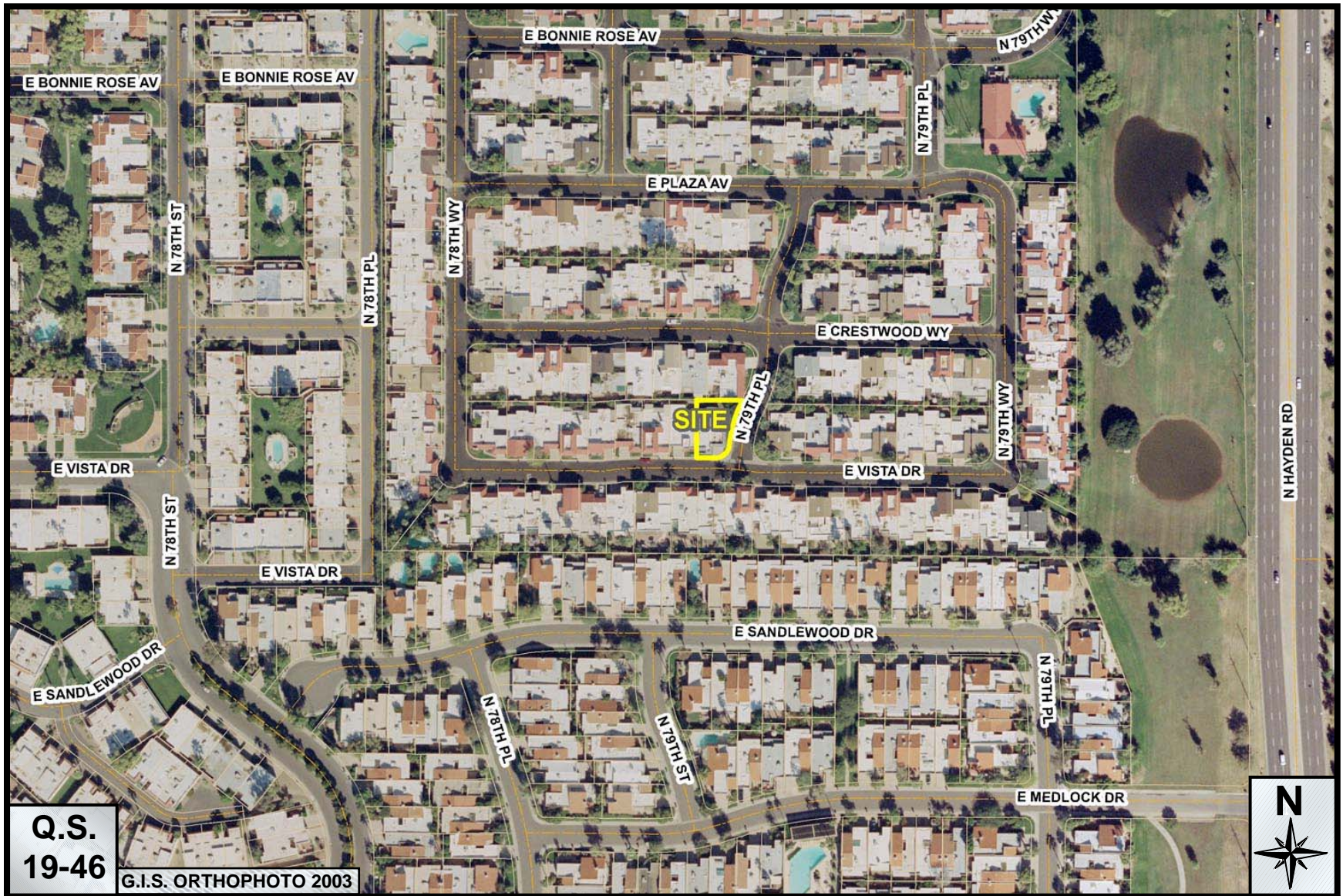
3. Special circumstances were not created by the owner or applicant:

The design and layout of this R-4 townhome are special circumstances that require relief and were not created by the applicant townhome owner.

4. Authorizing the application will not be materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the neighborhood, or the public welfare in general:

The granting of the variance would maintain the character of the Laguna San Juan townhome complex and allow open space and planting that enhance the property to the benefit of all surrounding neighbors and residents. There is no detrimental impact on anyone, and the adjacent neighbor to the north, as well as other neighbors in Laguna San Juan, are in support of the granting of the variance.

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Dickman Residence

4-BA-2005

ATTACHMENT #2



Q.S.
19-46

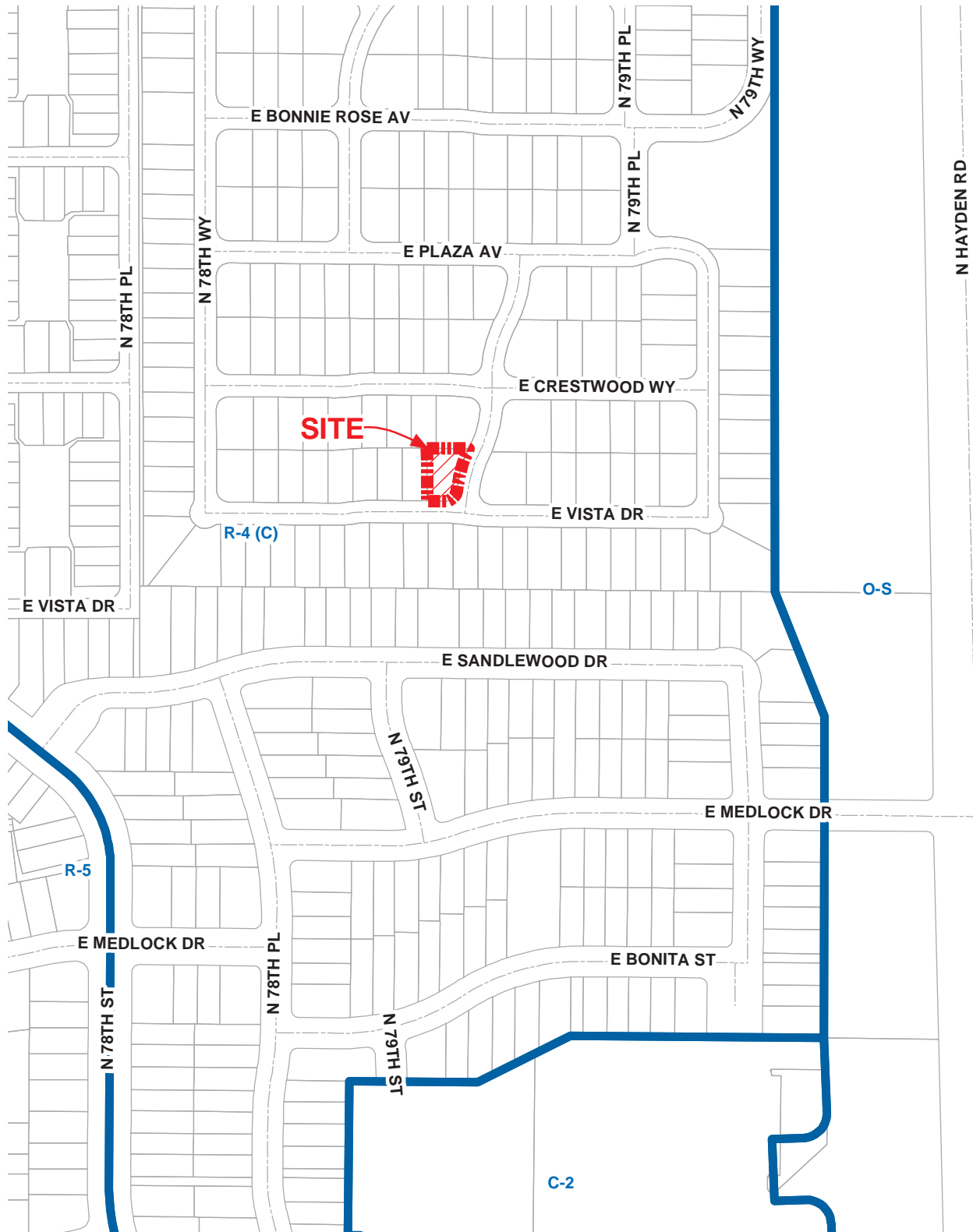
G.I.S. ORTHOPHOTO 2003



Dickman Residence

4-BA-2005

ATTACHMENT #2A



4-BA-2005

ATTACHMENT #3



2.4



4.5



1.2



3.1



6. ↑



8. ↑



5



7.



10



12.



9



11.



14.



16.



13.



15.

(D) Under New Business, the Meeting Minutes Motion should read:

Motion was made by Ray Van Cleave to have the Independent Recorder store any recordings and hardcopies issued to be held until the Board has approved those minutes, was seconded by Jim Peterson. Motion carried unanimously.

Motion by Jim Geldien to approve the minutes of the August Board of Directors meeting, as corrected, was seconded by Jim Peterson. Motion carried unanimously.

IV. ACCEPTANCE OF FINANCIAL STATEMENT

The August financial statement was reviewed, clarified and accepted.

V. MANAGEMENT REPORT

Pool Furniture - The pool chairs and lounges have been ordered. The company supplying the chairs has requested a 50% down payment before the chairs are shipped. It will take three weeks to have the order filled.

Card Keys - Kathleen received an estimate from Hicks to install card key locks in various locations. Kathleen will obtain more estimates for the Board to review before a decision is made.

Reserve Study - The Reserve Study will be started on October 8, 2004. The study will be completed in eight weeks.

VI. COMMITTEE REPORTS

Architectural Requests

The Board of Directors has Tabled Lot 157's request to install a beige security door until the next Board of Directors meeting.

Lot 225 submitted an Architectural Submittal form to complete various upgrades to her home.

Motion by Jim Peterson to approve the Architectural Submittal form as submitted for Lot 225, was seconded by Ray Van Cleave. Motion carried unanimously.

VII. UNFINISHED BUSINESS

Pest Control - Kathleen is working on obtaining more estimates to present to the Board.

VIII. NEW BUSINESS

Kathleen will compare this year and last years utility bills for the gas used to heat the pools. The Board would like to know if the billing statements are reflecting an increase in usage or an increase in the price of gas.

September 20, 2004

Board of Directors
Laguna San Juan

Re: 7916 E. Vista Drive

I would like to submit for your approval the following:

- Remove existing block fence and extending new block fence to the east to provide side yard. Fence would not extend further than "like" properties fences do. (Lots 174, 226) (Previously approved by the board) (pic. 5)
- Permit?* • Enclose patio area to be part of the home. (Previously approved by the board, Lot 126) (pic.1)
- Replace new compost shingles to replace blue colored shingles with neutral and of "like" shingles in the community or with "like" red tile. (pic. 1)
- Remove tree to east of current block fence as planning on installing an in-ground spa in the back yard and tree roots would impede. I would plant new trees at my expense on the outside (east) side of new block fence that would provide shade and shallow root structure. (pic. 5)
- I look forward to your review. It is my wish that this re-model blend with the current architecture. These changes would be like other properties that have done such remodeling. I am looking forward to my new neighborhood and meeting everyone.

• *expand master B/C*

Sincerely,

Suzi Dicklman

*like this.
(Replace existing with new or tile.)*

AMCOR PROPERTY PROFESSIONALS
16441 N. 91ST STREET, SUITE 104
Scottsdale Arizona, 85260
Phone: 480-948-5860

FILE COPY
ASSOC. _____
WHERE _____

October 5, 2004

Laguna San Juan
Owner Id: 000225-03
Property: 7916 E. Vista DR.
Scottsdale AZ 85250

Susan Dickman
7916 E. Vista DR.
Scottsdale AZ 85250

Re: Architectural - EXTEND PROPERTY WALL

Dear Susan Dickman:

Thank you for following the proper procedures in submitting your Request for Architectural Change. At this time, I am pleased to inform you that the above-referenced architectural request has been approved as submitted, with the following stipulations:

1. Owner is responsible for any and all personal or common area damage;
2. Owner is responsible for all monies to be spent with no offsets to assessments;
3. Owner and all subsequent owner(s) are responsible for all maintenance;
4. Installation cannot take any longer than thirty (30) days from start to finish;
5. Construction debris, if any, is to be removed daily;
6. Any necessary repainting is to match existing color.

The following conditions must also be met per the Board of Directors':

1. Blocks to match existing wall.
2. Wall to match existing height.
3. Building permits and setbacks must be obtained.
4. Gate facing Vista to be wooden and match existing throughout the property.

Should you have any questions or if we can be of further assistance, please call me at (480) 948-5860, ext. 17.

Sincerely,

Kathleen DeCoite
Community Manager

cc: Board of Directors

*LM
10/27 Called to inform Susan that
she needed written authorization
from neighbor with party wall.*

FILE COPY
ASSOC. _____
WHERE _____

February 7, 2005

Susan Dickman
7916 E. Vista
Scottsdale, AZ 85258

**RE: LAGUNA SAN JUAN HOME OWNERS ASSOCIATION - LOT 225
ARCHITECTURAL REVIEW**

Dear Susan:

This letter is to inform you that any architectural changes that you make must be accompanied by all architectural plans and specifications, approximate costs, and the permits associated with the construction of said changes. The Board of Directors' should have these documents before the start of the project. As of this date, we have not received any of the above documents. The Board requests that you submit these immediately or they will be forced to take further action.

Should you have any questions, or if I can be of further assistance, do not hesitate to call me at (480) 948-5860, extension 17.

Sincerely,

Kathleen DeCoite
Community Manager

cc: Board of Directors

KD

**LAGUNA SAN JUAN
HOMEOWNERS ASSOCIATION
Board of Directors Meeting Minutes
February 28, 2005**

BOARD MEMBERS PRESENT: Dan Granger, President
Jim Peterson, Vice President
Ray Van Cleave, Treasurer
Judy Eisenhower, Secretary
Jim Geldien, Director
Pat O'Conner, Director

PROPERTY MANAGEMENT PRESENT: Kathleen DeCoite, AMCOR Property Professionals.

I. CALL TO ORDER

Dan Granger called the meeting to order at 7:01 p.m.

II. ELECTIONS

Ginny Hahn introduced the following candidates interested in running for a position on the Board of Directors. Each candidate was given the opportunity to address the Association.

- 7915 E. Sage, Earl Eisenhower.
- 5334 N. 78th Way, Steve Monge.
- 5213 N. 79th Way, Chris Lawrence.
- 7908 E. Sage, Betty Osser.
- 7847 E. Plaza, Pat O'Connor.
- Lot 10, Wendy Borchard.
- Fred Rauch was unable to attend the meeting. Ginny Hahn spoke on his behalf.

There are four positions available on the Board of Directors. Dan Granger, Jim Peterson and Ray Van Cleave will remain as seated.

III. HOMEOWNER SESSION

Lot 99 reported a business operating from a home on Pecos Lane. DeCoite will follow up on the matter.

Lot 225, Susie Dickman received a letter from the Board of Directors requesting that the proper paperwork (elevations) be submitted to attach to her Architectural Request per the CC&R's. The homeowner confirmed that the proper paperwork was submitted. DeCoite will check into the matter. The homeowner also asked to have the sprinklers adjusted in her yard.

